

APPEAL NO. 070727  
FILED JUNE 12, 2007

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on March 5, 2007. The hearing officer resolved the disputed issues by deciding that the appellant's (claimant) injury of \_\_\_\_\_, does not extend to and include an injury to the cervical spine and that the claimant did not have disability from June 13, 2006, through the date of the CCH.

The claimant appealed the adverse determinations on a sufficiency of the evidence basis. The respondent (self-insured) responded asserting that the claimant's appeal was untimely and otherwise urging affirmance.

DECISION

Reversed and remanded for reconstruction of the record.

First we address the self-insured's contention that the claimant's appeal is untimely. A hearing officer's decision and order was sent to the claimant on March 31, 2007, however the claimant has proven that the decision sent to him was not the decision and order for his case. The Texas Department of Insurance, Division of Workers' Compensation (Division) records show that a correct copy of the hearing officer's decision was sent to the claimant by facsimile transmission (fax) on April 19, 2007. The claimant's appeal was filed with the Division by fax on April 20, 2007, and was therefore timely. See Section 410.202(a) and 28 TEX. ADMIN. CODE § 143.3(a)(3) (Rule 143.3(a)(3)).

The CCH record, including the exhibits, has not been received by the Appeals Panel. Efforts to locate the record of the proceeding have been unsuccessful. Section 410.203(a)(1) requires the Appeals Panel to consider the record developed at the CCH. The decision and order of the hearing officer are reversed and the case is remanded for reconstruction of the CCH record, to include exhibits, or forwarding of the CCH record if it can be located.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Division, pursuant to Section 410.202 which was amended June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. See Appeals Panel Decision 060721, June 12, 2006.

According to the hearing officer's decision, the true corporate name of the insurance carrier is the **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**MAYOR OF (CITY)  
(ADDRESS)  
(CITY), TEXAS (ZIP CODE).**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Veronica L. Ruberto  
Appeals Judge

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Margaret L. Turner  
Appeals Judge